## USE THIS FORM IF YOU ARE TRYING TO...

**NDPERS FLEXCOMP FORMS:**

| **If You Are Trying To:** | **Use This Form** |
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**Enrollments & Qualified Change in Status**

| | |
|---|---|
| Enroll in the FlexComp Plan during the Annual Enrollment Season | Annual FlexComp Enrollment **SFN 17759** |
| Enroll a new employee in the FlexComp Plan | New Hire Kit **SFN 54360** |
| Change an election amount, or enroll or discontinue participation based on a qualified change in status event. | FlexComp Change in Status **SFN 53511** |

**Changes/Additions**

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|---|---|
| Report a name, marital, or address change | Notice of Change **SFN 10766** |
| Report an employee transferring to another PERS participating agency | Notice of Transfer Kit **SFN 53728** |
| Report a leave of absence, leave of absence extension, or return from leave of absence | Notice of Status or Employment Change **SFN 53611** **&** FlexComp Change in Status **SFN 53511** |
| Report an employee's classification change within agency | Notice of Status or Employment Change **SFN 53611** |

**Separation of Employment**

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| Notify PERS of an employee's separation of employment | Notice of Status or Employment Change **SFN 53611** and provide the appropriate separation of employment kit |

## THE STATE OF NORTH DAKOTA FLEXCOMP PLAN

A “FlexComp Plan” is another term for a Cafeteria Plan and is established and administered under Section 125 of the Internal Revenue Code. It allows employees to save taxes on the amount they pay for eligible payroll deducted insurance premiums, medical expenses and dependent care expenses. The FlexComp Plan is administered by the North Dakota Public Employees Retirement System (NDPERS)

### ELIGIBILITY REQUIREMENTS:

The FlexComp Plan is available to eligible employees of the State of North Dakota and participating District Health Units. Members of the Legislative Assembly are also eligible to participate. Employees of the university system and political subdivisions are excluded from participation in the plan. To be eligible, an employee must be 18 years of age, work at least 20 hours per week for at least (20) weeks per year and be in a permanent position that is regularly funded and not of limited duration.

### FLEXCOMP BENEFITS

Benefit information for the FlexComp Program can be found in the **FlexComp Program Guide**.

Salary reductions as a result of FlexComp participation reduce an employee’s gross salary for Federal, State and FICA tax. However, retirement contributions are still based on the employer’s gross salary. Employees may elect to participate in any combination of the three pre-tax accounts.

**1. Premium Conversion**
Allows the employee to pay, with pretax dollars, certain premiums under various insurance programs available for payroll deduction through their employer.

Examples of eligible insurance premiums available through payroll deduction:

- Cancer insurance
- Dental insurance
- Vision insurance

The deduction for the first $50,000 of employee supplemental life insurance coverage must be set up as a pre-tax deduction unless the employee makes an election to decline this action in Section B of the FlexComp enrollment form. Please note, if the employee elects to pretax an insurance premium, they may not change or drop coverage during the plan year unless they experience an IRS Qualified Change of Status.

**2. Medical Spending Reimbursement Account**

An employee may redirect a portion of their salary for eligible medical expenses up to a maximum of $6,000. Requests for reimbursement from a Medical Spending Account will be paid throughout the plan year according to the employee's total annual medical spending election amount.

**3. Dependent Care Reimbursement Account**

An employee may redirect a portion of their salary up to a maximum limit of $5,000 for a single parent, $5,000 for a married couple filing a joint tax return or $2,500 for a married person filing a separate tax return. Requests for reimbursement from a Dependent Care Reimbursement Account will be paid according to the dollars available in the employee's account to date.

Dependent Care Reimbursement Account vs. Dependent Care Tax Credit

The Dependent Care Reimbursement Account is an alternative to the employee taking a dependent care tax credit on their income tax return. The employee must choose whether to take the tax credit or enroll in the Dependent Care Reimbursement Account. The IRS will not allow two tax breaks on the same expenses.

The income level of the employee or the employee and their spouse, if married, will determine whether the Dependent Care Reimbursement Account or the income tax credit is more favorable for them. The employee should contact a qualified tax consultant for complete details.

Payments made from a dependent care account are not taxable, but the amount redirected will appear on the employee's W-2 form. This will inform the IRS that the employee has received a tax break on their dependent care expenses through the FlexComp Plan. The employee is required to file Schedule 2 with their IRS Form 1040A or Form 2441 with their IRS Form 1040 to support the amount redirected for the plan year. This is for general information only and is not intended to provide specific advice or recommendations. The employee must consult their accountant or tax advisor with regard to their individual situation.

## ANNUAL FLEXCOMP ENROLLMENT
## SFN 17759

### ANNUAL OPEN ENROLLMENT

Each year, NDPERS designates an annual enrollment season when employees may enroll or discontinue their participation in the Plan. For employees enrolling during the annual enrollment, their participation in the Plan will begin January 1. **The final day for accepting claims for the Plan Year** for services received during the employee's participation is four months after the Plan Year ends on December 31 or until **April 30**. Employees should be instructed to return the completed FlexComp form to their agency payroll/human resource department for review.

**Payroll personnel will certify that the employee meets eligibility requirements and set up the employee record for pre-tax benefits based on the information on the form. Sign and date form. Keep a copy for your records and forward the original to NDPERS.**

**FLEXCOMP ENROLLMENT**
**New Hire Kit SFN 54360**

**NEW HIRES:**

New employees will become a participant the month the first contribution is received.

New employees who are set up with an email address will receive an email from PERS to inform them that they are eligible to participate in the FlexComp program and to contact the PERS office with any questions.

New employees should be instructed to return the completed FlexComp form to their agency payroll department for review. The box indicating New Election/Date of Hire should be checked and the date of hire listed on the form. The box indicating to participate in the Plan should be filled in with the date the first payroll deduction will be taken. Payroll will certify that the employee meets eligibility requirements and set up the employee record for pre-tax benefits based on the information on the form. Sign and date form. Keep a copy for your records and forward the original to NDPERS.

**FLEXCOMP CHANGE IN STATUS**
**SFN 53511**

## IRS QUALIFIED CHANGE IN STATUS EVENTS

In most circumstances, an employee's annual election amounts or any insurance premiums they are having payroll deducted pre-tax cannot be changed. An employee may change their election if they have a gain or loss of eligibility for coverage under this Plan or a plan maintained by their spouse's employer or their dependent's employer that is caused by a qualifying change in status and their election change corresponds with the gain or loss of coverage. An employee may be able to make a change under the following circumstances:

1. The employee's legal marital status changes through marriage, divorce, death, legal separation or annulment.

2. The employee's number of dependents changes because of birth, adoption (or placement for adoption), or death.

3. There is a change in the employee's employment status or the employment status of their spouse or any dependents. The employment status change must affect eligibility under this Plan or a plan maintained by the employer of their spouse or dependent due to commencement or termination of employment or a change from full-time to part-time or part-time to full-time employment. If the employee changes employment status from full-time to part-time or part-time to full-time their election change must correspond with the gain or loss of coverage. If the employee's spouse or dependents have an employment status change that affects eligibility under their employer's plan, and coverage is lost then the employee may increase coverage under this Plan. If the status change results in their spouse or dependents gaining coverage under their employer's plan, they may decrease coverage under this Plan.

4. An employee's dependent satisfies or ceases to satisfy the requirement for coverage under the Health Insurance Plan. If an employee's unmarried dependent is no longer eligible due to attainment of age, a change in student status, or marital status the employee could make a corresponding change to increase or decrease coverage under this Plan for the dependent.

5. If an employee is served with a judgment, decree or court order. This includes divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order) that requires health coverage for the employee's child. It would allow the employee to make an election change to their Medical Spending Account. The change is allowed in order to provide coverage for the child if the order

requires coverage under the employee's Plan; or cancel coverage for the child if the order requires the employee's former spouse to provide coverage.

6. The employee's spouse, or any of their dependents, become eligible or lose eligibility for coverage under Medicare or Medicaid. The election change must correspond with the gain or loss of coverage.

7. The employee's dependent care expenses change due to a provider rate change. This includes both increases and decreases in expenditures. However, the provider must not be the employee's relative. If there is a change of dependent care providers, the employee may make an election change to reflect the cost of the new provider. It is also considered a provider change and election decreases are allowed when the employee's child is no longer eligible for childcare or is only in after-school care due to entering kindergarten or first grade.

8. If they go on a leave of absence, military leave, or a leave covered by the Family and Medical Leave Act (FMLA), their medical spending and dependent care contributions or pre-tax insurance premiums may be made as follows:

   Under the pre-pay option, the employee may pay the amounts due while on leave on a pre-tax basis by having the total amount due while on leave payroll deducted prior to the leave.

   Under the pay-as-you-go option, the contribution may also be made pre-tax from any taxable compensation, such as annual leave or sick leave during the leave period.

   Under the "catch-up option", NDPERS will continue coverage during an unpaid leave. Upon return from leave, a participant will catch up with pre-tax payroll deductions.

   The employee may elect not to participate while on leave. If they elect not to participate while they are on a leave of absence, they will not be entitled to receive reimbursements for claims incurred beyond the last day of the month a contribution is received. Upon returning from leave, the employee may reinstate the coverage that was in effect prior to their leave or reinstate the coverage less the contributions that were missed during the leave.

A change in election is allowable and consistent with IRS regulations only if the change in status results in the employee, or their spouse or dependent, gaining or losing eligibility for coverage under either the cafeteria plan or health plan of the employee or the employer of their spouse or dependent and the election change corresponds with that gain or loss of coverage.

If the change in status event is the birth of a child, and the employee is a participant in the Plan at the time of birth, the effective date of coverage is the date of birth. If the change in status event is for reasons other than the birth of a child and the employee is a participant in the Plan, the effective date of coverage is the first appropriate pay period after the election is received.

If an employee is not enrolled in the Plan prior to the change in status event, the effective date of coverage is the date the first payroll contribution is received.

**FlexComp Change in Status Form SFN 53511 must be completed and submitted to NDPERS within 60 days of the change in status event.**

Employees should be instructed to return the completed FlexComp form to NDPERS. Upon review of the employee's request, a copy of the form will be returned to the payroll/human resource department approving or denying the change. Payroll will set up the employee record for pre-tax benefits based on the information on the form.

## PAYROLL DEDUCTIONS FOR ELIGIBLE EMPLOYER SPONSORED INSURANCE BENEFITS

Employees electing to pre-tax premiums for employer-sponsored insurance benefits may find that a portion of their premium for a particular insurance benefit is not eligible for pre-tax treatment. Examples of insurance premiums that are not eligible for pre-tax treatment include:

1. Premiums for employer sponsored group life insurance in excess of $50,000 on the employee.

2. Premiums for Personal Cash Value Life Insurance, such as Whole Life or Universal Life.

3. Premiums for long or short-term disability products and disability riders to cancer policies. **Please be advised, premiums for AFLAC disability products cannot be pre-taxed under any circumstances because AFLAC does not do tax reporting for claims paid.**

4. Premiums for long-term care insurance policies.

**NOTICE OF CHANGE**
**SFN 10766**

This form is to be completed to notify NDPERS of:

- Name change
- Address change
- Marital Status change
- Change in Dependent status
- FlexComp Election change

**Whenever the Notice of Change SFN 10766 is completed and sent to NDPERS, the employee or authorized agent must certify the accuracy of the information and the form must be dated. If someone other than the authorized agent or employee signs the form, it will be returned for the proper signature.**

## EMPLOYEE RESPONSIBILITIES – FLEXCOMP ELECTION CHANGE:

**FlexComp Change in Status Form SFN 53511 must be completed and submitted to NDPERS within 60 days of the change in status event.** A change to a FlexComp Medical Spending election is allowable and consistent with IRS regulations only if the change in status results in the employee, or their spouse or dependent, gaining or losing eligibility for coverage under either the cafeteria plan or health plan of the employee or the employer of their spouse or dependent and the election change corresponds with that gain or loss of coverage.

## EMPLOYEE RESPONSIBILITIES - DEPENDENT'S LOSS OF ELIGIBILITY STATUS:

If an employee is participating in a FlexComp Medical Spending Account and their spouse becomes widowed, divorced, or legally separated or their dependent child ceases to be a dependent under the terms of the Plan, their spouse or dependent(s) may have the right to continuation coverage.

It is the responsibility of the person seeking continuation coverage to contact the NDPERS office within 60 days of the occurrence of the event to obtain COBRA continuation information and application.

## NOTICE OF STATUS OR EMPLOYMENT CHANGE
## SFN 53611

**This form is to be completed by the employer when the employee has a change in employment status. (Instructions and conditions are also listed on the other side of this form).**

This form is to be completed to notify NDPERS of:

- Employee leave of absence/leave without pay
- Extending leave of absence/leave without pay
- Employee's return from leave of absence
- Employee classification change within agency
- Employee's reduction in hours
- Employee's separation from employment

### LEAVE OF ABSENCE

1. NDPERS must be notified whenever an employee is taking a leave of absence and the reason for the leave.
2. **FlexComp Change in Status Form SFN 53511 must be completed** by an employee participating in the FlexComp Plan and submitted to NDPERS indicating whether or not they wish to continue their participation and how the contributions will be received while they are on a leave.
3. NDPERS must be notified of the employee's return from leave. Upon returning from leave, if the employee elected not to participate in the FlexComp Plan while on leave, they may reinstate the coverage that was in effect prior to their leave or reinstate the coverage less the contributions that were missed during the leave.

### CLASSIFICATION CHANGE

1. Often employees will change their position within the employer group. This may affect their eligibility for participation in the FlexComp Plan.

### SEPARATION OF EMPLOYMENT

1. If an employee is separating from the employer's service, the employer must complete a Notice of Status or Employment Change **SFN 53611**. This form is contained in one of the separation from employment kits available on the NDPERS website at www.nd.gov/ndpers. These kits include all necessary forms the employer and employee are required to complete.
2. The employer or employee must select one of the following Kits:
   - Refund/Rollover **SFN 53725**
   - Deferred Retirement **SFN 53724**
   - Disability Retirement Kit **SFN 53726**
   - Retirement Kit **SFN 53723**
3. The "membership termination date" is the last date the employee worked at your agency in an eligible position.

**TERMINATION OF EMPLOYMENT**
**CONTINUATION OF COVERAGE IN A MEDICAL SPENDING ACCOUNT (COBRA)**
**SFN 53512**

## MEDICAL SPENDING REIMBURSEMENT ACCOUNT

If an employee retires or terminates employment during the Plan Year, they will be offered COBRA continuation coverage through the end of the Plan Year. The employee will have sixty (60) days from the date the notice of their right to continue coverage is provided to elect continuation coverage.

Unless an employee selects COBRA, their coverage will end on the last day of the month in which they terminate their employment.

If the employee becomes widowed, divorced, or legally separated or their dependent child ceases to be a dependent under the terms of the Plan, their spouse or dependent(s) may have the right to continuation coverage. It is the responsibility of the person seeking continuation coverage to inform NDPERS within 60 days of the occurrence of the event.

The remaining program contribution payments will be charged to the employee, their spouse, or dependent, as the case may be, in equal payments through the end of the Plan Year at 102%. The contribution payment amount in excess of 100% of the cost of providing coverage shall be treated as an administrative charge.

If continuation coverage is elected, coverage will be extended to the end of the current Plan Year on December 31st. If the employee has a balance in their medical spending account after the end of their COBRA period on December 31, they will have the option to have eligible expenses incurred during the “grace period” from January 1 through March 15 of the new plan year, reimbursed from that remaining balance.

## DEPENDENT CARE REIMBURSEMENT ACCOUNT (No COBRA Continuation Coverage Offered)

If an employee terminates employment their contributions will cease and payroll deductions will stop after the last day of the month in which they terminate. The employee may continue to file claims for qualifying expenses incurred during the Plan Year until they have been reimbursed the remaining balance in their account, if any.

The final day for accepting claims for the Plan Year from either an employee’s Medical Spending or Dependent Care Reimbursement account for services received while the employee was a participant is four months after the Plan Year ends on December 31 or until April 30.

## NOTICE OF TRANSFER
## SFN 53728

**All instructions, terms and conditions are in the NDPERS Notice of Transfer Kit SFN 53728.**

**If the employee will not begin employment with a new participating agency within 31 days from the date of employee's last regular paycheck with your agency, both the employee and the authorized agent must complete a separation of employment kit.**

**Administrative Code Chapter 71-02-01-01(24): "Termination of employment" means a severance of employment by not being on the payroll of a covered employer for a minimum of one month. Approved leave of absence does not constitute termination of employment.**

If an employee transfers employment from one participating employer to another participating employer (NDPERS Participating Employer Groups) without terminating eligible employment, and the employee is enrolled in the NDPERS FlexComp plan, no change is allowed and the employee's election will be reinstated as it was immediately prior to the separation of service.

In recognition of the fact that the current employer may not be aware of the circumstances regarding a departing employee's employment plans and subsequently a new employer will not receive any transfer information, NDPERS has developed a series of scenarios along with the required administrative procedures to follow depending on the particular situation. These procedures are designed to ensure transfers are processed consistently based on what the employer knows at the time of separation of employment.

**Situation:** Current employer knows the employee is transferring to another covered employer:

1. Complete the Notice of Transfer Kit SFN 53728, which contains the NOTICE OF TRANSFER FORM
2. Send the NOTICE OF TRANSFER FORM to the new employer

**Situation:** Current employer has no knowledge that terminating employee is transferring to another covered employer:

1. Current employer and employee complete the appropriate separation of employment kit
2. Send the complete kit to PERS
3. PERS will process accordingly in absence of any other information.

**Situation:** New employer receives a NOTICE OF TRANSFER FORM from a participating employer.

1. Do not have transferring employee complete new enrollment forms for plans indicated in Part C of the NOTICE OF TRANSFER FORM
2. Set up employee with benefits according to information provided in Part C of the NOTICE OF TRANSFER FORM
3. Have employee complete enrollment forms for programs not previously enrolled in through previous employer
4. Submit any new enrollment forms to PERS

**Situation:** New employer is not aware a new employee is a transfer from another participating employer. Previous employer processed as a separation of employment and employee does not provide the information.

1. Have new employee complete all required enrollment forms
2. Send the enrollment forms to PERS
3. If there is an existing record, and the hire date is within 31 days of separation from previous employer, PERS will notify you that employee is a transfer from another participating employer and will:
   a. Void the enrollment forms for any programs that employee previously participated in.
   b. Complete Parts A-D of the NOTICE OF TRANSFER FORM and send it to new employer.
   c. Employer will set up benefit record according to information provided in Part C of the NOTICE OF TRANSFER FORM
   d. Employer must complete Parts E and F on the NOTICE OF TRANSFER FORM and return it to PERS

**Situation:** New employer is aware a new employee is a transfer but previous employer treated as a separation of employment and did not complete a NOTICE OF TRANSFER FORM.

1. Complete Parts A, E, and F of the NOTICE OF TRANSFER FORM
2. Send the NOTICE OF TRANSFER FORM to PERS
3. If hire date is within 31 days of separation from previous employer, PERS will complete Part C based on existing record and return the form to the new employer
4. Have employee complete enrollment forms for programs not previously enrolled in through previous employer
5. Employer will set up the benefit record accordingly

## REPORTING FLEXCOMP CONTRIBUTIONS & FICA TAX

Chapter **54-52.3-03** of the North Dakota Century Code requires that the FICA tax savings be remitted to defray expenses of administering the program.

### AGENCIES ON THE PEOPLESOFT PAYROLL SYSTEM

The Section 125 administrative fee has been setup on PeopleSoft payroll system to automatically calculate the FICA tax savings and setup the payment to NDPERS.

### AGENCIES NOT ON THE PEOPLESOFT PAYROLL SYSTEM

Other participating employers report deductions by written documentation to coincide with their respective payroll schedules.

Payroll personnel should submit to NDPERS a current deduction list showing the payroll deductions being taken pre-tax and the FICA Savings Recap form along with a check for the total of the Medical Spending and Dependent Care contributions and the FICA savings.

**AGENCIES NOT ON THE PEOPLESOFT PAYROLL SYSTEM**
**FICA SAVINGS RECAP SHEET**

| NAME | EMP SSN | MED SPEND | DEP CARE | LIFE | DENTAL | VISION | TOTAL |
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| **TOTAL** | | | | | | | |

EMPLOYER FICA SAVINGS RECAP

FOR PAY PERIOD ENDING

____/____/____

AGENCY:

Total Premium Conversion Deductions $_____________

Total Medical Spending Account Deductions $_____________

Total Dependent Care Account Deductions $_____________

Total FlexComp Deductions $_____________

Applicable FICA Rate (multiply) X .0765

TOTAL FICA SAVINGS REMITTED $_____________

Please make check payable to NDPERS - FlexComp Program

cc: NDPERS
File

**FLEXCOMP REIMBURSEMENT VOUCHER**
**SFN 16868**

**This form must be completed by the employee to request reimbursement from a Medical Spending and/or Dependent Care Account.**

To receive reimbursement from a medical spending reimbursement account the employee must include all supporting documentation.

To receive reimbursement from a dependent care reimbursement account, the provider must complete Section D, Dependent Care Expenses, fill in the expense dates and amount, sign on the "Provider's Signature" line, and provide their social security number or taxpayer ID number in the space provided. Provider receipts submitted with request forms in lieu of provider completing Section D must include the following:

- Name of provider (include relationship if provider is related)
- Tax Identification Number or Social Security Number
- Actual dates on which care was provided **(not billing payment date)**
- Amounts of dependent day care charge

Employee must sign and date form certifying that the information submitted on voucher and attached billings and receipts is correct and complete.

**FILING PROCEDURE:** The original of the Reimbursement Voucher and all supporting documentation may be delivered or mailed to:

**NDPERS**
**PO Box 1657**
**400 East Broadway Ave Suite 505**
**Bismarck, ND 58502-1657**

## APPEALS PROCEDURE

The appeals procedure is for those situations in which the circumstances contributing to the delay for requesting reimbursement are beyond the participant's control. After four (4) months from the close of the plan year and before the end of 360 days following the close of the plan year, the participant may request the Appeals Committee to authorize reimbursement of a qualifying medical expense incurred during the plan year. The following guidelines will apply:

- A written request must be submitted by the participant to the Appeals Committee specifying the request and the reason(s) why the qualifying medical expense was not submitted on or before the end of the four (4) month run out period following the close of the plan year (December 31st). The request should be sent to NDPERS, Attn: FlexComp Administrator, PO Box 1657, Bismarck, ND 58502-1657.

- The Appeals Committee may authorize payment for any reason constituting good cause not involving fault on the part of the participant, if such payment would be permitted under Section 125 of the Internal Revenue Code.

- Upon authorization from the Appeals Committee, NDPERS will reimburse the participant for the amount not to exceed the account balance. The decision of the Appeals Committee is final.